

Jesselyn Radack at FFF Conference 2008, 1 of 6

https://www.youtube.com/watch?v=BE65_9W6IM0 (https://www.youtube.com/watch?v=BE65_9W6IM0)

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Jesselyn Radack on "Conscience Over Career: The Prosecution of the American Taliban" at the Future of Freedom Foundation's <http://fff.org> Restoring the Republic, 2008.

Jesselyn Radack is a former U.S. Department of Justice ethics adviser who came to prominence as a whistleblower after she objected to the government's treatment of John Walker Lindh (the "American Taliban" captured during the 2001 invasion of Afghanistan), having argued that, since a lawyer had been retained to represent him, he could not be interrogated without that lawyer present.

Playlist of Radack's lecture: http://www.youtube.com/view_play_list?p=8098DDCFDF68A64D

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jesselyn radack graduated magna [__] laude from Brown University and received her JD from Yale Law School she joined the department of justice where she practiced constitutional tort litigation and later worked in the Professional Responsibility advisory office which is the ethics department she has served in the Washington DC bar association legal ethics committee and has represented whistleblowers alleging reconstruction fraud in Iraq among the cases she worked on while at the Justice Department was that of John Walker Lindh the so-called American Taliban now one of the things that law students are taught in law school one of the most important things is that when it comes to ethical principles it doesn't matter whether you're on the prosecution side or you're on the defense side that those ethical principles must be applied consistently across the board well in the crisis of 911 and the invasion of Afghanistan and the invasion of Iraq as most everyone here knows the US government through a lot of the rules of law and as well as morality and ethics out the window and Justin when Jessamine was one of these lawyers in the Justice Department that took her ethical responsibilities seriously and she insisted on the application of ethical principles in this case of the American Taliban which every law student is taught that no matter how unpopular that case is no matter how despicable people consider your client you apply those ethical principles she learned that unfortunately the Justice Department didn't quite agree in those emergency crisis times she paid a tremendous price

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crisis times she paid a tremendous price in terms of her conscience over her career and that is the the title of her talk today please welcome jessalyn Radek can everybody hear me I wanted to say thank you to bumper my son Jacob would envy you your nickname his is a snickerdoodle so this was a very last-minute invitation but I am very glad to be talking to you and I'd like to thank the future of freedom foundation for the important work that they are doing and for inviting me to speak I had no way of knowing that my story was a snapshot of president bush's most controversial policies in their embryonic stages policies we are just now seeing play out in full today I am The Whistleblower in the case of American Taliban John Walker Lindh this very loaded sentence contains the ingredients of the perfect storm that this administration has brewed in the war on terrorism the Patriot Act torture policy occupation of Iraq a fault on journalists and punishment for truth tellers I was a legal adviser at the Justice Department on matters of ethics on december seven i filled it a call from a criminal division attorney named john de PUE he wanted to know about the

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john de PUE he wanted to know about the ethical propriety of interrogating american taliban John Walker Lindh without a lawyer being present dip you told me unambiguously that Lynn's father had retained counsel for his son I advised him that lind should not be questioned without his lawyer that was on a Friday he called me back on a monday and oops the FBI did it anyway what should we do now not to worry I said that was part of my job to help you get out of this kind of dilemma I said you need to seal off the interview and use it only for intelligence gathering and national security purposes but not for criminal prosecution again my advice was ignored three weeks later on january fifteenth 2002 then attorney general john ashcroft announced that a criminal complaint was being filed against John Walker Lindh quote the subject here is entitled to choose his own lawyer Ashcroft said and to our knowledge has not chosen a lawyer at this time I knew that wasn't true his parents had in fact retained counsel and tried desperately to communicate that to their son through the Red Cross the Justice Department the Defense Department in the state department three weeks later Ashcroft announced wins indictment saying that his rights have been carefully scrupulously honored again I knew that was not true about the

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again I knew that was not true about the same time I was given a backdated unsigned untimely and unprecedented performance evaluation from hell despite having received a performance award and a raised during the preceding year I was told that the vitriolic review would be put in my permanent personnel file unless I found another job I was shocked but I still did not put two and two together until a few weeks later on march seven I inadvertently learned that the judge presiding over the Lind cave had ordered that all Justice Department correspondent for related to Lynn's interrogation be submitted to the court such orders are routinely distributed to everyone with even a remote connection to the case in question but I heard about it only because the Lin prosecutor contacted me directly there was more the prosecutor said he had only two of my emails I knew I had written more than a dozen when I went to check the hard copy file the emails containing my assessment that the FBI had committed an ethical violation in linz interrogation were missing with the help of technical support I recover the missing emails from my computer archives have we heard that story before that the emails are missing I documented them and included them in a memo to my boss took home a copy for safekeeping in case a disappeared again and resigned months later as the Justice Department

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months later as the Justice Department continued to claim and never believe that at the time of his interrogation Lin had a lawyer I disclosed the emails to Newsweek in accordance with the whistleblower protection act as a result I was forced out of my job then in the private sector at the government's best placed under criminal investigation without any charges ever being brought referred to the State Bar's in which I'm licensed as an attorney and put on the no-fly list two weeks ago the Department of Justice Office of Inspector General issued a positive report on the FBI's involvement in detainee interrogations in Afghanistan Guantanamo Bay and Iraq this of course piqued my interest I applaud the of Inspector General's recognition of a handful of career justice attorneys and FBI officials who challenged abusive interrogation techniques and warned correctly that torture would likely taint any legal proceedings against suspected terrorists the report finds we believe the FBI should be credited for its conduct and professionalism in detainee interrogations but to reach this conclusion the OIG omits from the 458 page report one of the earliest and most obvious cases of torture and FBI misconduct that of John Walker Lindh the report does cover 2001 the period during which he was detained he is an American said then he was found shot in the leg and barely alive

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